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ILLINOIS
COMMERCE COMMISSION

Yaodi Hu,)
v.) Docket No. 02-0249
Illinois Power Company)

Yaodi Hu's Reply to Illinois Power Company's
Response to Emergency Motion for Injunction

Yaodi Hu hereby files his Reply to the Respondent Illinois Power Company's
Response to Emergency Motion for Injunction.

I. Background

In April 2002, Yaodi Hu as Complainant filed his formal Complaint with ICC. In the end of May, 2002, City's Electrical Inspector Eugene Underwood came to the subject property, declaring the shut down of the entire building, as retaliation for the filing. Eugene Underwood was trying to resolve the pending ICC proceeding through shut down. Once Yaodi Hu was forced to do electrical work required by Illinois Power and the City, the current proceeding would become moot.

After the shut down, June 4, 2002, Rodney Buckhum issued a letter (See **Exhibit 1**) detailing the items needed to be repaired to have the building re-opened. During a conference meeting shortly after the shut down, Eugene Underwood indicated that Electrical service is the only major item on the list needed to be dealt with. In the process of working with the City, it became clear that Illinois Power's request that a 400 AMP electrical meter to be located outside of the building is the only major obstacle preventing Yaodi Hu from re-opening the subject building. (**Exhibit 2**, proposal by Jorgenson)

Subsequently, Yaodi Hu filed an Emergency Motion for Injunction, enjoining Illinois Power from demanding the installation of a 400 AMP electrical meter outside of the subject property.

August 28, 2002, Administrative Law Judge entered a scheduling order. Complying with that order, on September 11, 2002 Yaodi Hu submitted his response to Illinois Power's information Request. Also, September 11, 2002, Yaodi Hu attended a

purported "settlement conference" with City of Danville, Illinois Power as intended participant. That settlement conference yielded no progress in resolving the current conflict because of the obvious lack of good faith on the part of Illinois Power and the refusal of City of Danville to participate.

In that conference, Illinois Power still refused to clarify its position as to what is required by Illinois Power regarding the subject property. Illinois Power also refused to withdraw its demand of installing a 400 AMP electrical meter outside of the subject property. For more than two months, Illinois Power refused to issue a written statement that it does not require a 400 AMP electrical meter to be located outside of the building.

Still, Illinois Power blamed the entire situation on the City of Danville. In light of that development, Yaodi Hu subsequently filed his Motion to join the City of Danville as necessary and indispensable party. Illinois Power filed its response taking officially a neutral position, but implying its opposition in the body of the Response, showing again its lack of good faith and actual partnering relationship with the City of Danville.

II. Other Proceedings

In June 2002, after the "shut down" of the building by the City of Danville, Yaodi Hu filed his formal complaint with U.S. Government, Department of Housing and Urban Development (HUD) regarding the violation of Fair Housing Act by both Illinois Power and Eugene Underwood of City of Danville, with original Inquiry number of 141126 against Illinois Power and 141121 against City of Danville.

September 30, 2002, the legal department of HUD determined that it has proper jurisdiction of the subject property regarding the violation of Fair Housing Act by both City of Danville and Illinois Power. Yaodi Hu's complaint is now filed with a formal HUD Case No. number of 05-02-1022-8 against Illinois Power and 05-02-1021-8 against City of Danville. (See **Exhibit 3**, HUD Complaint)

Currently, HUD is conducting conciliation mandated by the Fair Housing Act, 42 U.S.C. 3601 et al. According to the last conversation Yaodi Hu had with the HUD case worker in mid-October 2002, it appears that City of Danville is willing to negotiate a settlement with Yaodi Hu. Regarding the willingness to conciliate and settle on the part of Illinois Power, Yaodi Hu has no knowledge at all. Other than posturing itself in

litigating this case and trying to dismiss this ICC proceeding, Illinois Power refused all along to take any practical step toward the resolution of this conflict.

III. Reply to Illinois Power Regarding the Specificity of the Irreparable Harm

Yaodi Hu recently started a piano business, doing business as, Illiana Piano purported to be located at 430 E. Main Street Danville IL 61832. (See enclosed copy of Certificate of Registration, **Exhibit 4**).

In February 2002, Yaodi Hu purchased six pianos and stored them at 430 E. Main St. Danville 61832, planning to open a retail store at the same location under the trade name of Illiana Piano. Because of Illinois Power's refusal to connect electricity and its requirement of converting existing three service drops into one, City of Danville refused to issue Certificate of Occupancy. Rodney Buckham specifically stated that the City could force Yaodi Hu to move all the piano out of the premises. Yaodi Hu decided to move five pianos out of that location. Yaodi Hu is still unable to open a piano store now. With every passing day, Illinois Power has been causing irreparable harm to Yaodi Hu.

Yaodi Hu's wife Jun Zhou is an Illinois Licensed Real Estate Broker, with License numbered 075101438. (See **Exhibit 5**) Jun Zhou had planned to move to Danville Illinois to open a real estate office. Because of Illinois Power's demand to convert all three service drops into one, City of Danville would not issue a certificate of Occupancy until that demand is satisfied. Yaodi Hu and Jun Zhou used to own and operate Quality Realty in Chicago with more than two hundred thousand dollars of gross commission revenue in transacting real estate business in Mid 1990s. With every passing day, because of Illinois Power's demand, Jun Zhou could not open a real estate office in Danville Illinois, suffering irreparable harm.

Yaodi Hu and his wife also currently own a residential mortgage financing business. We are Illinois Residential Mortgage Licensee numbered 06518. (See **Exhibit 6**) We used to operate Quality Financing Corp. as owners. We used to be licensed as HUD FHA loan broker from 1996-2000. We did not renew our license in April 2000. We obtained our residential mortgage license again in July 2002. We are trying to be a

HUD FHA loan broker again. One of the requirements to be a HUD FHA loan broker is to have a store front as an office, instead of a home office. We planed to have 428 E. Main St. as our new location. Because of this Illinois Power's unreasonable demand, with every passing day, without being able to be a registered HUD FHA broker, we are suffering irreparable harm.

During the height of our Quality Financing Corp. business, every year, we financed 10's millions of dollars of mortgage loan for new construction, home buying and refinancing, converting home equity into real consumer buying powers, stimulating local and national economy. At the height of our business, we hired temporary and permanent employee numbered around 10. It takes time to build a business and time is the essence. Because of Illinois Power's action, it not only caused irreparable harm to Yaodi Hu and his family, but also irreparable harm to the local economy.

IV Reply to Illinois Power's Assertion that ICC Lacks the Power to Render Equitable Relief

ICC acquires its jurisdictional power to render equitable relief from Public Utilities Act, which says: "The Commerce Commission shall have general supervision of all public utilities..." (see 220 ILCS 5/4-101).

It is enough to point out that the Legislature of the State of Illinois did not intend to establish ICC as an academic debating forum. ICC was established to enforce the law of this State regarding utility matters.

It is also enough to point out that a very long history of Western Civilization indicates that it is quite elementary that any judicial forum empowered to enforce the law has its inherent equitable power to render equitable relief.

V. Reply to Illinois Power's Statement Regarding Standard of Review and its Assertion as to "Commission should deny Mr. Hu's request as he seeks a change in the status quo."

Complainant Yaodi Hu do not disagree with the Respondent Illinois Power on the legal standard of review. All three cases provided by Illinois Power, *Schwalm Electronics, Inc. v. Electrical Products Corp.*, 14 Ill. App. 3d 348, 302 N.E.2d 394(1973); *Mars, Inc. v. Curtiss Candy Co.*, 8 Ill. App. 3d 338, 290 N.E. 2d 701 (1972), *Edgewater Construction Co. v. Percy Wilson Mortgage & Finance Corp.*, 44 Ill. App. 3d 220, 357 N.E. 2d 1307 (1976) are relevant to the instant case.

Complainant Yaodi Hu disagree with Respondent Illinois Power on how these standards are applied. It specifically begins with "what is status quo."

The "status quo" is that the subject building has three service drops. The first service drop is to the 14 apartment with a 400 AMP main disconnect at 220 voltage, which is equivalent to 800 AMP capacity at 110 voltage. That service drop is currently delivering electricity to the building. It has been delivering electricity safely and continuously for the past several years or more. The second service drop is to 432 E. Main St. Danville IL 61832. It has 200 AMP capacity at 220 voltage. The entire service drop, service panel and internal wiring was replaced several years ago. The third service drop is to 428-430 E. Main St. Danville IL 61832.

Illinois Power has been trying to change that status quo since July 2001 by requiring Complainant Yaodi Hu converting all three service drops into one service drop.

When Yaodi Hu filed his formal Complaint with ICC, Illinois Power and City of Danville was trying to change the "status quo" by shutting down the subject building. In early June, 2002, City of Danville at the behest of Illinois Power sent out scores of firemen, policemen forcibly entered the building and ordered all tenants to vacate the building under the threat of arrest. By shutting down the building, both Illinois Power and City of Danville were forcing Yaodi Hu to do extensive electrical work to re-open the building, thereby changing the "status quo", rendering Complainant's formal Complaint 02-0249 moot.

The "shutting down" of the subject property under the City of Danville Municipal Ordinance was designed to circumvent the power of ICC, rendering this forum an ineffective forum in resolving the conflict involving public utilities.

In early July 2002, both Illinois Power and City of Danville no longer require all three service drops to be converted into one service drop. (See Mike Fedderman's July 3,

2002 letter **Exhibit 7)** That fact demonstrated that both Illinois Power and City of Danville realized that it is unlikely that they would succeed on the merit in terms of forcing Yaodi Hu changing the current three service drops into one service drop. It should be further emphasized that it is also unlikely for Illinois Power to succeed on the merit in terms of forcing Yaodi Hu installing a 400 AMP electrical meters outside of the building, which is why Illinois Power still refused to acknowledge the fact that it is still requiring a 400 AMP electrical meter to be installed outside of the building.

At the behest of Illinois Power, City of Danville still requires Yaodi Hu to relocate the main disconnect outside of the building and Illinois Power still requires Yaodi Hu to install a 400 AMP electrical meter outside of the building. (See Exhibit 2) These requirements are in fact trying to change the "status quo." City of Danville also requires that the main disconnect inside the building to be eliminated. By meeting that requirement, all the individual electrical meter inside the building will have to be eliminated according to the National Electrical Code.

What Illinois Power and City of Danville are trying to do is to force Complainant Yaodi Hu to eliminate all the electrical equipment inside the building and re-build a new electrical system outside the building, thereby changing the "status quo."

Illinois Power and City of Danville's previous and current requirement both serves as de facto injunction, enjoined Complainant Yaodi Hu from opening up any business at 428-432 E. Main St. Danville IL 61832 for over 16 months. Illinois Power and City of Danville failed to show that they have a clear legal right to demand Yaodi Hu relocating main disconnect outside of the building and installing a 400 AMP electrical meter outside of building. Illinois Power and City of Danville also failed to show that they are likely to succeed on the merit, i.e., they are likely to succeed in forcing Petitioner Yaodi Hu relocating the main disconnect outside of the building and installing a 400 AMP electrical meter outside of the building. *Schwalm Electronics, Inc. v. Electrical Products Corp.*, 14 Ill. App. 3d 348, 302 N.E.2d 394(1973); *Mars, Inc. v. Curtiss Candy Co.*, 8 Ill. App. 3d 338, 290 N.E. 2d 701 (1972), *Edgewater Construction Co. v. Percy Wilson Mortgage & Finance Corp.*, 44 Ill. App. 3d 220, 357 N.E. 2d 1307 (1976).

Because of the extraordinary monopoly power by the Utilities Company in rendering its own de facto injunction, the State of Illinois, through its legislature

established ICC to regulate and supervise public utilities company. In order to preserve the current status quo, Yaodi Hu respectfully request ICC to enjoin Illinois Power from imposing that de facto injunction upon Complainant Yaodi Hu to change the status quo.

VI. Reply to Illinois Power's Argument that the Entire Injunction Motion is not Supported by any Evidence

Yaodi Hu hereby enclose all the Exhibits and his own affidavit (Exhibit 11) as evidence.

VII Reply to Illinois Power's Assertion "there is clearly a dispute as to whether the conditions at the Requested Premises are safe and what is being requested by whom."

Other than naked assertion, in its Response to Emergency Motion for Injunction, Illinois Power failed to specify any safety problem leading to its decision not to connect the electricity but seeking disapproval from the city of Danville.

There is clearly a concerted effort by Illinois Power to conceal the fact to obstruct the justice.

Illinois Power failed to provide the names of at least five to six employees involved in two different incidents denying electrical service to Yaoidi Hu. See Illinois Power's Response to Petitioner's Data Request #4. (See Exhibit 8)

Illinois Power also deliberately failed to respond to Yaodi Hu's data request in confirming its current request of installing a 400 AMP meter outside of the building. (See Exhibit 9).

Illinois Power further deliberately failed to acknowledge that it demanded three service drops to be converted into one service. (See Exhibit 10)

It is quite clear that for more that a year, Illinois Power was requesting all the meters to be located outside of the building, and the only way that can accomplished is that all the main disconnects to be relocated outside of the building. When Yaodi Hu hired Don Hernnett, he specifically informed Yaodi Hu that it is the Illinois Power

wanted all three service drops to be converted into one service drop with all the meter and disconnect located outside of the building.

Illinois Power in its Response to the Emergency Motion for Injunction also failed to show that why current multiple service is unsafe and their requirement of converting the current three service drops into one would make it any safer. Illinois Power also failed to demonstrate how installing a 400 AMP electrical meter outside of the building is making the condition of the building any safer.

When Eugene Underwood came to 428 E. Main in July 2001, he emphatically demanded that all the meters to be relocated outside of the building per Illinois Power. During a conference, shortly after the shut down, with Rodney Buckhum and another electrician present, Mr. Underwood brought up the issue of stealing electricity inside the building, and using this as justification of demanding three service drops to be converted into one and relocating all the electrical meter outside of the building per Illinois Power.

Yaodi Hu had numerous conversations with Eugene Underwood and Rodney Buckhum, during past 16 months. Every discussion turn into what Illinois Power was requiring, which is three service drops to be converted into one and relocating all the meters outside of the building.

After the shut down, in discussing with Ernie Georgenson, an electrical contractor, he specifically indicated that Illinois Power demanded 400 AMP electrical meter to be located outside of the building.

Clearly, the safety was never an issue, which is why there is still supply of electricity to 428 ½ E. Main St. to all the fourteen apartments. The issue is Illinois Power has been trying to force Yaodi Hu relocating all the meter outside the building to prevent the stealing of the electricity.

VII. Reply to Illinois Power's Assertion "Utility shall have the right to reject any application for service or to terminate service to any Customer whose premises, in the judgment of Utility, are dangerous to persons or are otherwise unsafe in the vicinity of Utility's meter or other facilities."

There are two specific times when Illinois Power personnel's refused to connect the electricity, went to City of Danville electrical inspector asking for disapproval.

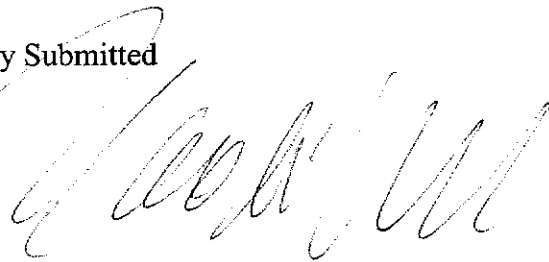
In its Response to Yaodi Hu's Emergency Motion of Injunction, Illinois Power failed to specify any unsafe condition of the premises, leading to their employee's decision not to connect electricity. In fact, Illinois Power failed to provide the names and identities of those individuals involved.

To say that "it is clear that Illinois Power is operating in a manner consistent with its Electric Rules and safety concerns and cannot energize the Requested Premises until it is satisfied that the facilities are in a safe and reliable condition." (see Illinois Power's Answer to Complainant's Emergency Motion for Injunction, last paragraph) is patent gross misrepresentation to the Commission.

In order to preserve the current status quo, ICC ought to enjoin both City of Danville and Illinois Power from requiring Yaodi Hu to relocate main disconnect and electrical meter outside of the building.

It is disingenuous for Illinois Power to assert that "based on the representations made by Mr. Hu in his pleadings, it the City of Danville that is requesting that 'all the meters and the main disconnect [be] relocated outside the building.'" Actually, Yaodi Hu has maintained all along that the request by the City of Danville came from Illinois Power. That is why Yaodi Hu filed his formal Complaint against Illinois Power only with ICC in April 2002.

Respectfully Submitted

A handwritten signature in dark ink, appearing to read 'Yaodi Hu', is written over the typed name.

Yaodi Hu

October 30, 2002